

**Environmental Planning and Assessment Regulation 2000
(Clause 25E)**

**EXPLANATORY NOTE
AVERYS VILLAGE HEDDON GRETA**

1. Introduction

This Explanatory Note provides a plain English summary to support the exhibition of a proposed draft planning agreement (the **Planning Agreement**) prepared under section 93F of the *Environmental Planning and Assessment Act 1979* (the **Act**).

This Explanatory Note relates to the Planning Agreement proposed to be entered into by the parties described below in respect of land at Averys Village Heddon Greta, in the Local Government Area of Cessnock.

2. Parties to the Planning Agreement

The parties to the Planning Agreement are the Minister for the Environment as Minister administering the *National Parks and Wildlife Act 1974* (the **Minister**), Cessnock City Council (the **Council**) and Hunter Land Holdings Pty Limited ACN 110 974 439, AVP Investor Pty Limited ACN 128 410, Lindsay James George Elliott, Graham John Field, Pamela Joy Field and HL Eco Trades Pty Ltd ACN 131 137 258 (the **Landowner**). This explanatory note has been prepared jointly by the parties.

3. Description of Subject Land

The Planning Agreement applies to land at Heddon Greta owned by the Landowners:

- (a) Lot 20 DP11823,
- (b) Lot 12 DP755231,
- (c) Lot 13 DP755231,
- (d) Lot 5 DP1082569,
- (e) Lot 8 DP10443,
- (f) Lot 119 DP752445

(the **Land**).

The Land is shown on the plan attached as 'Annexure A' to the Planning Agreement.

4. Description of the Development / change to environmental planning instrument

The Landowner proposes to develop part of the Land for the purpose of residential and other ancillary development, such as the necessary local roads and other infrastructure (the **Proposed Development**). Part of the land is to be zoned E2 Environmental Conservation for environmental conservation purposes, and either transferred to the Minister or another arrangement preferred by the Minister to achieve the desired environmental conservation outcome (the **Onsite Environmental Land**). The landowner also proposes to transfer Lot 119 DP 752445 at Duns Creek (the **Offsite Environmental Land**) to the Minister for the Environment (the **Minister**) to further

mitigate and offset the likely impacts on biodiversity from urban development on part of the Land.

In order to facilitate the Proposed Development, the Landowner has sought an amendment to the Cessnock Local Environmental Plan 2011.

After the amendment to the Cessnock Local Environmental Plan 2011 is made, the Landowner intends to lodge with the Council a Development Application for the Proposed Development.

5. Summary of Objectives, Nature and Effect of the Planning Agreement

As part of the Council's proposal to amend the land use zoning to reflect the environmental constraints and development opportunities for the Land, the Landowner has offered to enter into the Planning Agreement with the Minister and the Council.

The objectives of the Planning Agreement are to ensure that the Proposed Development occurs in a way that is consistent with the principles of ecologically sustainable development, Lower Hunter Regional Strategy, Lower Hunter Conservation Plan, and studies and investigations undertaken as part of the preparation of the Planning Proposal to amend the Cessnock Local Environmental Plan 2011 in respect of the Land.

To achieve these objectives, the Planning Agreement commits the Landowner to provide the following contributions to the Minister to offset the potential biodiversity impacts of the proposed urban development:

- (a) A monetary contribution of \$30,000.00 to assist the Minister in the reservation of the Offsite Environmental Land under the *National Parks and Wildlife Act 1974* (the **Environmental Contribution**).
- (b) Dedication and transfer of 40 hectares of Offsite Environmental Land to the Minister (the **Offsite Environmental Land Contribution**) for reservation under the *National Parks and Wildlife Act 1974*.
- (c) The on-going protection and management for conservation purposes of approximately 56 hectares of Onsite Environmental Land (the **Onsite Environmental Land Contribution**). The Onsite Environmental Land may either be:
 - dedicated to the Minister for reservation under the *National Parks and Wildlife Act 1974* or managed by the Office of Environment and Heritage (the **Original Onsite Environmental Land Contribution**); or
 - retained in private ownership and subject to a conservation agreement, biobanking agreement, property vegetation plan, or any other contribution determined by the Minister to be appropriate (the **Alternate Onsite Environmental Land Contribution**).

The Planning Agreement contains other provisions relating to the process of implementing the above contributions.

The Planning Agreement, and the requirements in it for the Landowner to provide these Contributions, does not prevent Council from levying contributions under s94 of the *Environmental Planning and Assessment Act 1979*, for services and infrastructure.

6. Restriction on issue of construction, occupation or subdivision certificate

There is a restriction on the issue of a construction certificate if the monetary Environmental Contribution is not made.

7. Assessment of the Merits of the Planning Agreement

7.1 How the Planning Agreement promotes the objects of the Act

The Contributions required by the Planning Agreement are consistent with and promote the objects in section 5 of the Act. In particular:

- (a) the requirements in relation to the Onsite and Offsite Environmental Land promote:
 - (i) Section 5(a)(i) - "proper management, development and conservation of natural and artificial resources, including...cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment";
 - (ii) Section 5(a)(iv) - "the provision of land for public purposes";
 - (iii) Section 5(a)(vi) - "the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats"; and
 - (iv) Section 5(a)(vii) - "ecologically sustainable development"

7.2 How the Planning Agreement promotes the Council's Charter under the Local Government Act

- (a) The proposed Agreement promotes the following elements of the council's charter under clause 8 of the *Local Government Act 1993*:
 - (i) To exercise community leadership;
 - (ii) To properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development; and
 - (iii) To engage in long-term strategic planning on behalf of the local community

7.3 The planning purposes served by the Planning Agreement

The planning purposes that are served by the Planning Agreement are, amongst other things, the:

- (a) Protection, restoration and management in perpetuity of land of high ecological and wildlife corridor value, by ensuring transfer of the Offsite Environmental Land into the National Park estate, and the transfer of the Onsite Environmental Land into the National Park Estate or other alternative measure according to the Minister's preference; and

- (b) Siting of urban development to minimise impacts on the natural environment.

The Parties consider that the Planning Agreement provides an effective means of achieving these planning purposes in relation to the Land.

7.4 How the Planning Agreement promotes the public interest

The Planning Agreement promotes the public interest by committing the Landowner to make Contributions that are intended to positively serve the economic and social wellbeing of the community, and which maintain the ecological integrity of the natural environment. The Contributions will provide a benefit to the community from the protection and management of the natural environment.

8. Interpretation of Planning Agreement

This Explanatory Note is not to be used to assist in construing the Planning Agreement.

9. Further information

Copies of the Planning Agreement are available on the Cessnock City council website, and at the offices of Cessnock City Council, Vincent Street, Cessnock, and the Office of Environment and Heritage, 117 Bull Street, Newcastle West.